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Boston lawyer, Scientology locked in battle since 1979

Second of two articles
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Globe Staff

Boston attorney Michael J. Flynn concedes that the Church of Scientology has become an obsession with him, and, for its part, the church at times has treated Flynn like a demon.

The two sides have fought in and out of court for four years — since Flynn and three associates at his small waterfront law firm began spending nearly all their time representing Scientology defectors

in civil lawsuits against the church.

The torrent of vituperation between the parties has tended to blur the legal claims made in 22 suits Flynn has filed around the country since 1979. In the suits, all still pending, Flynn generally asserts that the church has engaged in fraud, misrepresentation, breach of contract and infliction of emotional distress, and that it should repay to the 32 defectors he represents the money they donated to the church, plus damages. The

church categorically denies the charges.

Flynn's most notable Scientology case is the one brought in California last year on behalf of Ronald DeWolf, the estranged son of church founder L. Ron Hubbard. Hubbard has not been seen publicly for seven years. DeWolf contends his father is either dead or missing, though the judge in the case said recently he believes that Hubbard is alive. DeWolf also alleges that his father's personal assets, estimated

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at \$500 million, are being plundered by church leaders, and he is asking to be appointed trustee of his father's estate.

Each side has accused the other of using ugly, underhanded tactics. The church, calling Flynn a "shyster" and an "extortionist," contends he is "the ringmaster of a national media and litigation campaign against Scientology."

Flynn, meanwhile, likens the church to a group of "Nazis." He charges it has carried out numerous dirty tricks and acts of harassment against him. Affidavits in support of his contention are on file in US District Court in Boston in connection with pending litigation involving four defectors.

To support its claims against Flynn, the church often cites what it calls "the Michael Flynn extortion letter." In the midst of settlement negotiations with the church in 1981, Flynn offered in writing to drop all the litigation filed up to that time and return to Scientology officials thousands of pages of FBI-seized church documents if the church would pay the defectors he then represented "not less" than \$1.6 million. If the church did not accept in 14 days, Flynn added, he would proceed with plans to file an additional 8 to 10 suits on behalf of defectors in New York, Washington and Los Angeles. Although at one point the church told Flynn in a letter that it accepted his offer "in principle," negotiations on details broke down.

Lawyer's trash rifled

Foremost among Flynn's complaints is the rifling of the trash inside his office compound on Union Wharf for 18 months from 1979-1981 by Scientologists to gain information about him and his clients. The church, which contends the trash was "publicly available," has used documents it found as the basis for nine lawsuits and nine bar complaints against Flynn.

Affidavits by the four church defectors - Carol Garrity, Ford Schwartz, Jane Peterson and Warren Friske - allege that church members have conducted numerous acts of harassment against Flynn for the ultimate purpose of undermining him and his cases. Included in the affidavits were assertions that, in addition to rifling his trash, church members had:

- Contacted some of Flynn's non-church clients and told them that he had cheated them out of money.
- Telephoned the Internal Revenue Service with false financial information about him, hoping to spur a tax probe.
- Monitored Flynn's activities closely by watching and photographing visitors to his office and by calling his bank regularly to determine how much money he had deposited in his account, the number of which had been found in his trash.
- Tried repeatedly to plant operatives in his office.

The church refused to be interviewed by The Globe concerning these allegations, saying through its Boston lawyer, Harvey A. Silvergate, that the matter was under investigation.

According to the affidavit from Friske, who said he was heavily involved in anti-Flynn activity until he left the church last year, the church's Boston mission coordinated its campaign against Flynn with national church headquarters in Los Angeles. He said the Boston organization "conducted almost daily operations against him for a period of almost 2½ years, since he first became involved in litigation"

"In connection with some of these operations," Friske said, "hundreds of telephone calls were made to many people ... some of which were of an investigatory nature, and many of which were to discredit and harass him [Flynn]."

In a sworn deposition taken by Flynn last December, Kevin Tighe said he was the Boston church member who took most of the trash from Flynn's office dumpster. In the deposition, Tighe said almost daily reports on Flynn's activities would be prepared after culling through his trash. The reports would then be sent to the church's national headquarters.

Bar complaints filed

In April 1982, US District Court Judge W. Arthur Garrity Jr. ordered the church to return all the papers and documents taken from Flynn's trash. The next month, Silvergate filed a notice with the court stating the church had complied and returned to Flynn about 20,000 pages of documents and pieces of paper.

What the church did not turn over to Flynn were partial transcriptions of 60 or so of the typewriter ribbons and cartridges that had been discarded into the dumpster by Flynn's office. Silvergate argued that some of the transcriptions contained notes made by church members, and that they were, therefore, "work product" protected from discovery by Flynn. Garrity is now in possession of the transcripts, pending a ruling on Flynn's request that he be given access to them.

Another former Scientologist who has filed an affidavit concerning activities against Flynn is Jane Peterson, a member of the church's Las Vegas mission from 1975-1980. In her affidavit, she said she observed operations being planned to infiltrate Flynn's law office and said the church's express goal was "... to get Michael Flynn disbarred."

Flynn says the church and its attorney have filed nine complaints with the state Board of Bar Overseers, which monitors the conduct of lawyers in the state. Reading from the various complaints, Flynn said they alleged a range of misconduct including: solicitation of

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BY GENE KATZ

clients, engaging in "religious bigotry," engaging in threats against the church and its members, and failing to list on his bar application that he once committed a traffic violation for not stopping at a stop sign.

One of the more serious complaints concerned Flynn's formation of a company called Flynn Associates Management Corp. (FAMCO). Silvergate alleged in an August 1981 bar complaint that Flynn began FAMCO to raise money through the sale of its stock to finance his Scientology litigation.

Ruling on documents

Flynn said in an interview that he chartered the company as a proposed computer venture with one of his brothers. When the venture did not materialize, Flynn said, another brother, then an investigator for his law firm, proposed reviving the firm so he could sell his investigative services on Scientology to the law firm. Flynn said he rejected the proposal in June 1981 because it would have given "the appearance of impropriety." He said no stock in FAMCO was ever issued or sold.

In referring the FAMCO complaint to the bar board, Silvergate and his partner, Nancy Gertner, wrote they had "just learned" that the church had been involved in trash-taking, and that it had gone on "without our authorization or prior knowledge."

Since the FAMCO proposal was one of the items uncovered in Flynn's trash, Silvergate and Gertner asked the board to rule if it was proper to use the documents as a basis for a bar complaint, or in litigation. Daniel Klubock, bar counsel for the board, said he advised Silvergate that as long as the documents were "legally obtained," they could be used.

Silvergate indicated his reading of the law was that it is legal to take trash left out in public for collection. But Flynn argues that it constitutes tres-

passing, larceny and invasion of privacy to take trash if the receptacle is on private property and is privately disposed of, as at Union Wharf.

Flynn said Silvergate had personally filed five of the nine complaints against him. Silvergate refused to discuss them, noting that the proceedings of the Bar Board are confidential. However, he said he would be interviewed about the complaints if Flynn gave him a written waiver to do so. Flynn declined, but did provide such a waiver so bar counsel Klubock could discuss the matter.

Klubock said the church allegations of misconduct against Flynn had been dismissed, while Silvergate's have been consolidated into one "grievance," pending a determination of whether it should be upgraded to a full-fledged complaint that would be reviewed by the Bar itself.

Defector wanted money returned

Flynn, a resident of Boxford, is a 38-year old graduate of Holy Cross and Suffolk Law School, and a former associate in the Boston law firm of Bingham, Dana & Gould. Married with three children, he is also a pilot who owns his own twin-engine plane.

Flynn began his Scientology litigation in mid-1979 after a church defector, LaVenda Van Schaick, then of Somerville, requested he file suit to recover the \$12,800 she said she had donated to the church. Several months later, nine high church officials were convicted in connection with a scheme to infiltrate and break into several federal agencies in Washington that were investigating Scientology.

Fortunately for Flynn, the Justice Department made public some 30,000 documents it had seized from the church, which formed the basis of the prosecution. Flynn said the documents, which in part detailed the church's plans and programs to attack its critics, confirmed for him his suspicions that he was a similar target of the Scientologists. Shortly after photocopying all of the documents, Flynn filed a \$200 million class-action suit against the church on behalf of Van Schaick and other "victims" of the church. (The counts containing the class action claims were later dismissed by *Garrison*.)

Coming at a time when the church was receiving bad press because of the conviction of nine of its officials, Flynn's suit attracted the attention of many Scientology defectors.

In his fourth year of litigation against the church, Flynn has become the principal source of anti-Scientology information and documents in the country.

He has also served as a contact for law enforcement officials. He cooperated with authorities in Toronto, who in March of this year raided church headquarters in that city and seized a truckload of documents as part of an investigation of alleged consumer and tax fraud. Flynn is also cooperating with pending criminal investigations of the church in Florida and Arizona.

In the DeWolf case in California, the church notes Flynn is seeking to protect Hubbard's assets, while in other suits he is trying to seize them.

"You can't have it both ways," Heber Jentzsch, president of the Church of Scientology International, said in a recent interview. "Flynn is a man who's given new definition to the word shyster ... The man is unconscionable. We don't pay extortionists ... We'll outlast him by far ... You don't criticize a man's religion in this country and get away with it."

Responds Flynn: "They try to portray me as the ambulance-chasing, money-grubbing attorney. It's a bunch of garbage. My office is out more than \$350,000 ... I represent regular people pursuing a group that can only be compared to the Nazis. The scope of this thing is staggering. I used to be a normal guy, but litigating against this cult has made me very careful."